MONTANA LEGISLATIVE HISTORY

Chapter 389 19 95

Bill H _____ S 218 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 02	✓ C	Hearing Date(s)	Jan 27	✓ C
	Mar 15	✓ C		Feb 08	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	Mar 15	✓ C		Feb 08	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

SB 217 INTRODUCED BY DOHERTY

CLARIFY QUALIFICATIONS FOR THE INDIAN CHILD WELFARE SPECIALIST TO ALLOW APPOINTMENT OF A QUALIFIED PERSON

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

1/21	INTRODUCED		
1/21	FIRST READING		
1/21	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/06	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED		
2/10	2ND READING PASSED	49	0
2/11	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/11	FIRST READING		
2/15	REFERRED TO HUMAN SERVICES & AGING		
3/03	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED		
3/07	2ND READING CONCURRED	95	4
3/08	3RD READING CONCURRED	91	8
	RETURNED TO SENATE		
3/11	SIGNED BY PRESIDENT		
3/11	SIGNED BY SPEAKER		
3/13	TRANSMITTED TO GOVERNOR		
3/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 144		
	EFFECTIVE DATE: 03/15/95		

SB 218 INTRODUCED BY CHRISTIAENS, ET AL.

GENERALLY REVISE LANDLORD AND TENANT LAWS

1/21	INTRODUCED		
1/21	FIRST READING		
1/21	REFERRED TO JUDICIARY		
1/27	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/09	2ND READING PASSED	49	0
2/10	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/13	FIRST READING		
2/15	REFERRED TO JUDICIARY		
3/02	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	89	10
3/27	3RD READING CONCURRED	91	7
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 389		
	EFFECTIVE DATE: 10/01/95		

SB 219 INTRODUCED BY DOHERTY, ET AL.

PROVIDE FOR MANDATORY FINE FOR POSSESSION AND STORAGE OF DANGEROUS DRUGS

1/21	INTRODUCED
1/21	FIRST READING
1/21	REFERRED TO TAXATION

SENATE BILL NO. 218

INTRODUCED BY Wisoman Bruggeman Anderson Bill Wilson Harding Tower Sales HARP Beck

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LANDLORD AND TENANT LAWS; ALLOWING ALL LANDLORDS TO ADOPT WRITTEN RULES AND REQUIRING DISTRIBUTION TO TENANTS; PROVIDING REMEDIES FOR CERTAIN BREACHES OF A RENTAL AGREEMENT BY A TENANT; CLARIFYING THE ACTION FOR POSSESSION OF A MOBILE HOME SPACE; REVISING GROUNDS FOR TERMINATION OF A MOBILE HOME RENTAL AGREEMENT; REVISING SECURITY DEPOSIT DEDUCTIONS; AND AMENDING SECTIONS 70-24-311, 70-24-422, 70-24-427, 70-24-436, AND 70-25-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-24-311, MCA, is amended to read:

"**70-24-311. Landlord authorized to adopt rules.** (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time that the tenant enters into the rental agreement or when it is adopted.

~~(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park may adopt written rules concerning the tenant's use and occupancy of the premises.~~

~~(3)~~(2) A rule adopted by a landlord ~~of a mobile home park~~ must be in writing and must be given to each ~~mobile home owner or~~ tenant ~~of a mobile home owner~~ residing ~~in the mobile home park~~ on the

premises and to each new ~~resident~~ tenant upon arrival.

~~(4)~~(3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of the tenant's bargain, it is not valid until 7 days after written notice to the tenant in the case of a week to week tenancy or 30 days' written notice in the case of tenancies from month to month."

Section 2. Section 70-24-422, MCA, is amended to read:

"**70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321 affecting health and safety, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 days after receipt of the notice. If the breach is not remedied within that time, the rental agreement terminates as provided in the notice, subject to the following exceptions:

(a) If the breach is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate.

(b) If the breach involves an unauthorized pet, the landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time.

(c) If the breach involves unauthorized persons residing in the rental unit, the landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time.

~~(b)~~(d) If substantially the same act or omission ~~which~~ that constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the breach and the date of the termination of the rental agreement.

(2) (a) Except as provided in subsection (2)(b), if rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(b) For a rental agreement involving a tenant who rents space to park a mobile home but who does

not rent the mobile home, if rent remains unpaid 3 days after the tenant has received the notice ~~period~~ referred to in subsection (2)(a) ~~is~~, the landlord may terminate the rental agreement 15 days after the tenant has received that notice.

(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the breach under the provisions of 70-24-321(2).

(4) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (5), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

(5) Treble damages may not be recovered for the tenant's early termination of the tenancy.

(6) The landlord is not bound by this section in the event that the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."

Section 3. Section 70-24-427, MCA, is amended to read:

"**70-24-427. Landlord's remedies after termination -- action for possession.** (1) If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for any breach of the rental agreement.

(2) An action filed pursuant to subsection (1) in a court must be heard within 20 days after the tenant's appearance or the answer date stated in the summons. If the action is appealed to the district court, the hearing must be held within 20 days after the case is transmitted to the district court.

(3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in subsection (2) without the necessity of an undertaking.

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 days after the hearing.

(5) In a landlord's action for possession of a mobile home park space filed pursuant to subsection (1), if the court enters a writ of assistance directing the sheriff to enter the premises and remove the mobile home owner and the tenant of the mobile home owner, the sheriff shall remove the owner and tenant within 10 days from the date on which the writ is delivered to the sheriff."

Section 4. Section 70-24-436, MCA, is amended to read:

"**70-24-436. Mobile home parks -- grounds for termination of rental agreement.** (1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422 and only for one or more of the following reasons:

(a) nonpayment of rent, late charges, or common area maintenance fees as established in the rental agreement;

(b) late payment of rent, late charges, or common area maintenance fees as established in the rental agreement three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by 70-24-422;

(c) violation of a mobile home park rule that creates an immediate threat to the health and safety of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator is given written notice of the violation;

(d) two or more violations within a 12-month period of any combination of one or more mobile home park rules, the violation of which would have a significant adverse impact on the mobile home park or its residents and which are so designated;

(e) two or more violations within a 12-month period of the same rule;

(f) two or more violations of 70-24-321(1) within a 12-month period or any violation of 70-24-321(2);

(g) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use of the premises, endangers other residents or mobile home park personnel, or causes substantial damage to the mobile home park premises;

(h) conviction of the mobile home owner or a tenant of the mobile home owner of a violation of a federal or state law or local ordinance, when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park, or the landlord's documentation of a violation of the provisions of Title 45, chapter 9;

(i) changes in the use of the land if the requirements of subsection (2) are met; or

(j) ~~a legitimate business~~ notwithstanding the reasons or time periods established in subsections (1)(a) through (1)(i), any other reason, ~~of~~ provided that the landlord ~~if~~ meets the following requirements ~~of subsection (3) are met~~:

(i) the termination does not violate a provision of this section or any other state statute; and

(ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum of 90 days' written notice of the termination.

(2) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (2)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

~~(3) (a) A landlord may terminate the rental agreement of a mobile home owner or a tenant of a mobile home owner if the landlord, by the termination:~~

~~(i) does not violate a provision of this section or any other state statute; and~~

~~(ii) has a legitimate business reason.~~

~~(b) A landlord shall give the mobile home owner or the tenant of a mobile home owner a minimum of 90 days' written notice of termination.~~

~~(4)~~(3) For purposes of calculating the total number of notices given within a 12-month period under subsection (1)(b), only one notice per violation per month may be included in the calculation."

Section 5. Section 70-25-201, MCA, is amended to read:

"**70-25-201. Security deposit -- deductions authorized therefrom.** (1) A landlord renting property covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties

due under lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-24-441(3), and a sum for actual cleaning expenses.

(2) At the request of either party, the premises may be inspected within 1 week prior to termination of the tenancy.

(3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not be deducted until written notice has been given to the tenant. The notice must include the cleaning not accomplished by the tenant and the additional and type or types of cleaning ~~which~~ that need to be done by the tenant to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant has 24 hours to complete the required cleaning. If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the cleaning charges from the deposit.

(4) A person may not deduct or withhold from the security deposit any amount for purposes other than those set forth in this section."

-END-

SENATOR BENEDICT answered that it gives the Governor that call, as the representative of all the people of the state, so that he can make a judgment call.

SENATOR GROSFIELD asked if he intended to include the next budget or every budget from here on out.

SENATOR BENEDICT replied that the intent would be the next budgeting cycle and subsequent budgets.

SENATOR HALLIGAN asked what state the laundry list came from.

SENATOR BENEDICT said the federal acts and rules and regulations were compiled by the Legislative Council when he asked them to go through as many as they could pull up immediately to give an idea as a point of reference.

SENATOR HALLIGAN asked if Colorado had the same bill, to which he said no.

SENATOR HALLIGAN said that he saw nothing on economic development administration, nothing from small business, nothing on banking and he wondered if he picked the ones here for a reason or they could add to them.

SENATOR BENEDICT said he specifically asked that it say, "the terms include, but are not limited to the following."

Closing by Sponsor:

SENATOR BENEDICT said that the language in the bill is not rhetoric and is not inflammatory, it is just a statement that the people of Montana are not comfortable with the encroachment of the federal government in the affairs that should rightfully be left to the people of Montana. The business of states' rights won't be settled in one, two or five years, but may play out for years to come. The people want less government interference in their lives, he said, and this bill is a tool for the state to help develop its strategy in restoring the balance of powers between the state and the federal government. It doesn't require that any agency or any executive ignore any mandate, but rather it begins to assess where we should resist burdensome and unnecessary federal regulations so as to develop our own programs with an eye to what best meets the needs of our people. He urged passage of SB 167.

HEARING ON SB 218

Opening Statement by Sponsor:

SENATOR CHRISTIAENS, Senate District 23, Cascade County, sponsored SB 218, revising landlord/tenant laws. He turned the hearing over to the proponents with reservation for the closing.

Proponents' Testimony:

Greg Van Horsen, on behalf of the Montana Housing Providers, a group of approximately 1,100 rental property owners, spoke in favor of SB 218. He said there was a great deal of discussion last session regarding rental arrangements in mobile home parks. This bill is intended to make amendments to various notice provisions of that act as it relates to mobile home parks and amendments to determination issues as well, he said. Section 1 simply deletes unnecessary language regarding the owners discretion to draft rules. The next section requires a landlord who decides to promulgate rules applicable, to put them in writing. Section 2 addresses the termination of a rental agreement in the case of unauthorized pets being brought into the property, or unauthorized persons residing in a rental unit. Additionally, Subsection 2 clears up the notice requirements necessary in the event that a tenant does not pay his/her rent. Section 3 adds a new Subsection, he said, which provides for court expedition of the eviction process. This section is applicable after there has already been a judgement handed down from a court, he said. Section 5 allows the landlord to deduct additional items from a security deposit such as late charges, penalties, utilities and other monies owing to the landlord at the termination of the rental agreement. He explained Section 4, probably the primary reason for the opposition to the bill. This particular section is not meant to abrogate the issue of just cause eviction. It's very important to note that in Subsection 4 of the bill, in visiting with the sponsor and people he represents, he asked that the following change be made on Page 4, Line 28: to cross out the words, "any other reason," and add the words, "legitimate business reason." The change is meant entirely to address notice provisions required in an eviction based on a legitimate business reason, and that's it, he said. Subsection 7-24-436 provides a list of ten reasons a landlord in a mobile home can evict a tenant in the park, notice requirements and time requirements. Subsection j of the statute was added as an amendment during the deliberations by **SENATOR HARP** and was meant to be a catch-all for which a landlord could make evictions. It was intended to add flexibility to run the business, he said. A 90-day notice requirement previously located in Subsection 3 of the statute, was meant to be a requirement exclusive to any conviction based on any legitimate business reason. During the interim some confusion has arisen regarding Subsection 3. Some courts require 90 days for the written notice for the termination of rental agreement under any circumstances including the non-payment of rent. He passed out a training manual circulated in Kalispell which confuses the intent of the 1993 legislation. **(EXHIBIT 9).**

Mary McCue represented a group of mobile home park owners. She asked to speak to the Section 3 provision. The language was included in the bill at the request of the owners she represents and establishes a time frame by which the sheriff has to act upon a writ of assistance issued by the court. In an eviction action

of a tenant who is occupying a mobile home space, once the court has issued its judgement in favor of the landlord and has told the tenant to vacate the space, if the tenant does not, the landlord has to go back to the judge and ask for a writ of assistance. They would like to have a time frame set, she said. They are not creating a new remedy, this is being done. Her group approached the law enforcement people and they had no objection to the bill and felt they could comply with the ten day limitation.

Dan McLean, representing the Oakland Holding Company, owner of several mobile home parks in Montana, remarked on provisions in Section 4, the proposal to add back in "legitimate business reason" for an eviction. In a general landlord/tenant law, he said, there is a 30-day right of termination without cause and that has been a workable solution. In a mobile home park, owners should have the same kinds of fair protections as any other kinds of landlords of property, the right to terminate tenancy, without having to justify in each cases the reason they might to do that. It's important to leave language in providing for a 90-day termination. This is a responsible bill that clarifies the law, he said. There may be a shortage of spaces, he contended, and that's why they need whatever time they need to get out, but that flies in the face of the property owner to control their property. To invite people to build more parks, there should not be restrictions to their ability to derive benefit and profit. The bill rewards tenants who are careful and responsible and pay their rent, and provides incentives for others to get into the business.

Rhonda Carpenter, Chairman, Montana Housing Providers, which consists of three statewide landlord organizations, spoke to the changes in Section 2. These are not a change in terms of the lease agreement, she said, In these circumstances the landlord and tenant have already agreed, in writing, to no pets and as to how many people will reside in the unit. This is simply shortening the time a tenant, who already knows he is in violation of the lease, has to correct the situation. Pets can do considerable damage in 14 days, she said, and this amendment will attempt to preserve the value of the rental by speeding the termination process. Sewer charges are lienable on property, she explained, so extra people increase the costs to sewers or holding tanks. She said they would appreciate a Do Pass recommendation.

Opponents' Testimony:

Andy Gardener, representing Montana People's Action, handed out written testimony (EXHIBIT 10). He maintained that SB 218 is not about simple technical revisions on the "good cause" laws written in the last legislative session, but rather an attempt to circumvent those laws.

Jim Fleschman, Executive Director of Montana People's Action, addressed the law and objections of most mobile home owners. With regard to Section 2, he said they had no problem if the rules were in writing, and not subject to interpretation. He questioned the pet provision since owners make the rules and furthermore pet damages more often than not occur in their own home, the mobile unit. What would constitute an unauthorized person, he asked, in his home? On the action for possession, he said, civil codes already provide for repossession, so why do the landlord/tenant laws require codification for civil procedures? The most damaging part of the bill is in the changes for reason for eviction and legitimate business reasons. Tenants demonstrated to the legislature that eviction was used as a management tool to get rid of people who complained about conditions in the court and wanted to improve it. Perhaps the landlord would find a person passing a petition a "nuisance," he said, and evict them for a good "business reason." This bill guts the "good cause" bill, he protested. He handed out a letter **(EXHIBIT 11)** describing retaliatory evictions of tenants who complain about court conditions. He also handed out information from **Klaus D. Sitte (EXHIBIT 12)** who wrote the good cause provisions, and has projected in his letter what this bill will do. The need has not been demonstrated to change a law only in effect for a year and one-half, he said, besides, no specific cases have been brought before the committee.

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Bruce Hietala, Missoula, Representing the Mobile Home Park Residents Association, told the committee that the intent of the good cause bill in 1993 was to prevent unjust evictions and he cautioned every member to review the information and not allow unjust evictions.

Lela DeCock, Belgrade, representing the Montana People's Action (MPA), said that she and her husband moved to the Bozeman area to attend school and because of the inflated real estate market, chose to buy a mobile home. They have been through several court hearings on an illegal eviction, she said. The rulings were in their favor including legal fees, which were all appealed. In November 1, 1994 the Supreme Court decided in their favor and the landlord still declares them evicted. She helped with the good cause legislation and says the landlord is angry about that. It would cost between $3,500 to $4,000 to move the mobile home. She said she and her family of five will be the first evicted if SB 218 passes.

Alice Janke, from Lexley Acres in Belgrade, Mt., also a Montana People's Action representative, said she represented 100 trailers. Two years ago she said she worked on the good cause and her landlord bragged that he did not need a reason to evict the people in their court. She had received threatening notes

taped to the door nearly every month, she said. She presented copies of these transactions **(EXHIBIT 13)** dated one year apart. She said that the past two years have been peaceful in the court, however, she had been in court with the landlord, won, and was re-evicted the following week. She is in litigation now. She urged opposition to SB 218 to give the people an opportunity to protect themselves.

Ron Grafft, Missoula, co-chairman of Travois Residents' Association and a member of the Montana People's Action, said that his association had been in litigation with the landowner for the past three years, and he felt if this legislation passed, most of them would be evicted. He asked for a Do Not Pass resolution to the bill.

Nancy Weinzettel, resident, Highwood Mobile Home Court in Great Falls, said she was a homeowner. She is also the chairperson of the Great Falls Montana People's Action, she said. She maintained that if the bill passed, there would be very little question that she and her son would be evicted. She said her court was a good place to live and she did not want to leave. She has been active in forming residents' associations in mobile home courts, and while this doesn't reflect on her responsibilities as a good tenant, the landlord perceives her as a threat because of her proactive stance in advancing mobile home residents' rights. The first to fall victim to this bill would be folks like her, she said, and the second group would be the average tenants that the landlord just doesn't like. She said they wanted to live without fear of eviction. Good landlords and good tenants have nothing to fear with the legislation passed two years ago, she said. She asked the committee to remember that her mobile home isn't mobile.

Bob Christiansen, Frenchtown, and Montana Peoples' Action member, said he had first hand knowledge of problems in mobile courts. He said they had gone through years of bad management, bad sewers and bad owners. They had lived in Leisure Park Trailer Court in Lolo for 13 years, and were then evicted because he joined a tenant association. He said if passed, the bill would allow landlords to evict for no reason. He said the landlords would try to convince the committee that they have no power over their property. He said that with passage of the bill, 110,000 people in mobile home courts will be right back where they started before the good cause law, at the mercy of the landlords.

Kenneth Van Stockum, resident of Countryside Village in Great Falls and a member of the Montana Peoples' Action, asked the committee to oppose SB 218. He said it was against the Constitutional rights of the people living in mobile home courts. There should be good cause for evictions, he said, and feared he would be evicted for his participation in residents' organizations and for his part in testifying on the bill.

Mike Payne, Missoula, a manufactured home owner, thanked the committee for the good deed they had done in passing the 1993 original good cause provisions. He said it was the only real protection he had against tyrannical landlords who would wish to use their personal power for personal reasons to cause him the devastating and irreparable harm of evicting he and his home to the streets. He implored them not to undo a good job of approving the good cause act. He said he believed **SENATOR CHRISTIAENS** to be an ethical and humane man who simply did not understand the implications of the bill and how much harm it could do.

Percie Jones, Missoula, tenant, spoke against SB 218. He said that passage of SB 218 would unjustly force the people to relive what they knew and fought so hard to change in the 1993 good cause legislation. He urged a "no" vote.

Edward Baron, Great Falls, Montana Peoples' Action, said he was a registered voter and represented about 500 people in Great Falls. He opposed SB 218, not only as a tenant, but because he felt it to be unfair and unconstitutional on grounds of personal dislike, because of being a Jew, Catholic or Indian. His presence at the hearing could be used to evict him. He told **SENATOR DOHERTY** that he had voted for him, and hoped he had reason to vote for him again.

J. B. Bennett, representing Montana Public Interest Research Group (MontPIRG) presented written testimony (EXHIBIT 14).

Another written document was submitted to the secretary (EXHIBIT 15) which contain letters from Mrs. Jo Nulliner of Great Falls and Karen Pester of Great Falls.

Questions From Committee Members and Responses:

SENATOR DOHERTY asked the sponsor whether or not it was his intent to remove the "just cause" provision that currently governs evictions for mobile home parks.

SENATOR CHRISTIAENS said it was not his intent, nor had ever been. He said an amendment had been started to add the wording, "of legitimate business reasons," which he believed would keep the language in the bill as it was passed in 1993. It would be added at the bottom of Page 4, Line 27, he said.

SENATOR DOHERTY asked one of the opponents, **Mr. Fleschman,** if with the addition of the language, it would satisfy him that the good cause provision was not being tampered with?

Mr. Fleschman answered that the Section 70-24-436 lists the specific good cause provisions. After the Section I it said, "or" and then it says simply, "legitimate business reasons." There was confusion around what is a "legitimate business reason," he said.

SENATOR DOHERTY said that "legitimate business reason" as it was written was current statute. He questioned if **Mr. Fleschman** wanted to get rid of a "legitimate business reason" in current statute.

Mr. Fleschman did know why it read "or" then, and not just "legitimate business reason."

SENATOR DOHERTY asked if the argument was with the current law and the current language, or is the argument with the amendment.

Mr. Fleschman said they were concerned with striking Section 3 on Page 5 and wondered why it was necessary. It is the interpretation of the author of good cause, he said, that with the striking of Section 3 in conjunction with the proposed Section J, the good cause reasons will no longer work.

SENATOR DOHERTY asked if **Mr. Sitte** was present, to which **Mr. Fleschman** replied that he was unable to be here.

SENATOR DOHERTY asked if it was the combination of those two things that they believe will remove just cause?

Mr. Fleschman replied to the affirmative.

CHAIRMAN CRIPPEN asked **SENATOR CHRISTIAENS** for clarification on the striking of the language on Page 1.

SENATOR CHRISTIAENS said that he thought there was misunderstanding and that the bill clarified all landlord/tenant law not just mobile homes.

CHAIRMAN CRIPPEN explained that in the hearings two years ago, they thought there was a distinct reason for having some reason for having regular landlord law and specifically separate provisions for mobile homes. The mobile home has a unique status and recognized the misnomer of saying they are actually mobile. So he asked the sponsor if he is saying there would be no separate provision for mobiles?

SENATOR CHRISTIAENS asked **Mary McCue** to respond. She said that during the last session there were two bills dealing with mobile homes and requiring the rules be in writing. She said this bill would expand the rule to all landlords not just mobile home park landlords, and would be for the protection of the tenants.

SENATOR CRIPPEN asked if there was any objection to this portion and it was determined that there was none among the witnesses. He then asked about Page 2, unauthorized pets. He questioned the pet damage in mobile homes, which are the renters' own homes.

Mary McCue answered that the trouble would be a large animal that is causing a lot of harm, and the landlords wanted to have this shorter time frame to take care of the problem. Also, she said,

two cats may have been allowed, and suddenly the people have 20 cats.

Rhonda Carpenter said that she teaches this law for the Commerce Department and she would explain it. This section was put in for apartments, not mobile homes, and it falls under rule violations. The items in this section are already pre-agreed upon in the contract and would be rules violations under just cause eviction. The pet issue would be one rule violation, not an eviction. In an apartment complex, they would be able to tell them they had three days to get rid of the pet or move; in the mobile home situation, as long as they got rid of the pet, it would be a rule violation and they would not be evicted, but one rule violation would go into their file.

SENATOR CRIPPEN questioned if 72-94-422 does not apply to mobile homes.

Rhonda Carpenter stated that it would apply as a rule violation if they did not get rid of the pet. If they insisted on keeping the pet, then yes, she said, eviction proceeding would start.

CHAIRMAN CRIPPEN further asked why it said three days?

Rhonda Carpenter stated that the three days was put in there because they already knew in advance that there were no pets allowed in this building or mobile home park. This is not a new rule, she said. A new rule would take the whole 30 days of notification, no change of terms in a lease. In this agreement, two adults have already signed a contract, then one adult chose not to comply with the lease agreement. The three days was put in there for the damage done to apartments, assuming that the majority of mobile home parks didn't have a rule that said you could not have a pet in your own house.

Jim Fleschman asked why, if it was only a rule violation, it would be written into statute that if you break the pet rule the rental agreement terminates?

Valencia Lane was asked her opinion by **CHAIRMAN CRIPPEN.** She said tht there was a specific section on Page 4, 70-24-436, which applies to mobile home parks, and it says you can only terminate the rental agreements for certain reasons, and there has to be repeated violations of the rule. She thought that the bill sets up a conflict between the two sections because 70-24-422 specifically says, "in the case of a breach involving a pet or an unauthorized person, the lease terminates in three days after three days notice". One way to alleviate that problem would be to amend one or the other. As it stands, there is a conflict, she said.

CHAIRMAN CRIPPEN asked about Subsection C, unauthorized persons. He realized that from the landlords' point of view, they are renting to specific people in an apartment. He asked for

comment.

Melissa Case, Montana Peoples' Action, said those cases were covered under legal agreements and they did have legal recourse. This is not necessary since it's covered under the contract and if there's a violation, it's a breach of the contract.

Rhonda Carpenter said that both the pet rulings and this question are covered under a 14-day notice, but they wanted the time on the ability to give the notices, shortened to three days.

CHAIRMAN CRIPPEN agreed that pumping tanks for extra persons etc., would go toward expense, not damage. He suggested perhaps additional fees for the extra people would be reasonable.

Rhonda Carpenter replied that The Human Rights Commission will not allow them to charge more money per person. It's against the law in the U.S. because of human rights and familial status.

Melissa Case pointed out that the case of the drunken brother-in-law would be a violation covered under a health and safety provision, for which there is 24-hour notice. This applies to mobile home parks and could be extended to rental units, she said.

The CHAIRMAN asked for an example for a landlord to terminate the rental agreement 15 days after the tenant has received notice as seen in Subsection 2a on Page 3.

Jim Fleschman said that they did not understand the intent.

Rhonda Carpenter explained that if she owned an apartment complex and a tenant forgot to pay their rent, she would notify them to pay in three days or get out. The mobile home landlord gives the notice and it takes 15 days to get out or pay. They wanted to make the mobile home owners noticing time shorter, not the moving time.

Melissa Case said she would concur.

Jim Fleschman said the problem is that people have a stationary piece of property and are not likely to run off, but many times tenants have agreements to pay on payday and the landlord can renege on those verbal agreements.

CHAIRMAN CRIPPEN asked why in the world anyone would have a verbal agreement.

CHAIRMAN CRIPPEN questioned the writ of assistance on Page 5. If it is already case law, why do you want it here, he asked?

Jim Fleschman said that they considered this item to be a tool of intimidation. He also said it was unnecessary. Landlords have the right to take possession. Why would it need to be written in

landlord/tenant law any more than it would be written into an automobile dealer/sheriff contract.

The **Chairman** asked if **Jim Fleschman** found it unreasonable for the landlords to have the right of the writ of assistance. **CHAIRMAN CRIPPEN** said the writ of assistance is after the fact; everything is done. But if the tenant had said he won't move, the writ of assistance is just a direction from the court to the sheriff to help remove the tenant. If there is clarity in this part of the law, he said, he didn't see where anybody would object to this. He asked for additional research.

Jim Fleschman said no other businesses have that direction written into codes specifying the assistance of law enforcement in repossession or conviction.

Mary McCue said that was the point of the legislation, to address the sheriff's direction. They would already have the judgement against the tenant when this would start. This provision was really directed at the sheriff's office in determining a time frame, which varies from department to department.

Melissa Case said that it should be in the civil procedure codes, not the landlord/tenant code, making it consistent for everyone.

CHAIRMAN CRIPPEN asked the sponsor about the amendment on Page 4. He asked if he took out "legitimate business" and intended to put it back?

SENATOR CHRISTIAENS stated that yes, he intended to. It was a mistake, he said, to take it out and not the intent to do away with the good cause.

Rhonda Carpenter said that their understanding was that last time with **SENATOR HARP'S** amendment, all the rule violations, etc., would fall under landlord/tenant law. If they did not correct them, they moved. If they did, it was a rule violation and they had to get two to be asked to move. The "legitimate business" reason that **SENATOR HARP** offered was all on its own, but since then, interpretations of the courts have been varied, and a number of courts are ruling that non-payment of rent is a good business reason to evict someone. However, when the tenants don't pay their rent, they get 90 full days to sit there without paying before they move. It is happening in a large number of courtrooms, she said. She said the landlords' association wanted the 90 days to be separate. Under 70-24-431, she said, which is retaliatory conduct by a landlord to be prohibited, it is the law that if a tenant complains of a health problem or joins a tenant organization or complains of a rule violation, and the landlord tries to evict them or raise their rent in the next six months, they have a presumption of retaliatory action and have grounds in court to prevent the eviction.

Jim Fleschman said that in the meantime you've lost your mobile home space and are forced to hire an attorney. He reminded everyone of the Yellowstone County Health Department letter in which they acknowledge that the law is being broken with some regularity.

Melissa Case wanted to strike "the legitimate business reason" as it is separated out in Section J. Another thing is the change of use as a separate issue in this law, she said.

Rhonda Carpenter said they asked for the clarification because 90 days for non-payment of rent is a long time to wait.

Jim Fleschman said then they should have said "except in the case of the non-payment of rent." Why was the Section 3 eliminated?

{Tape:3; Side:B ; Approx. Counter:0.1}

Mary McCue said that she did not think there was agreement. They were saying that unless there was a legitimate business reason, that is the only category that the 90-day requirement would pertain to, but as Mr. Sitte said, they think it should be 90 days notice in all circumstances when you're removing a mobile home.

Closing by Sponsor:

SENATOR CHRISTIAENS told the committee that it was never his intent to do away with the good cause portions in the bill. He thought that by adding "legitimate business reasons" which they gave verbally would clarify that. He promised his continued work with the staff attorney. He said that Section 2 clarified a written agreement already in place and he expressed amazement to have opposition to the bill. Retaliatory action was extremely clear, he said, as set forth in Section 70-24-431, and anyone being evicted because of participation in this hearing should be assured that it was not the case.

1

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL EXEC. SESSION - 8:30 DATE 1-27-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN			✓
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
wp.rollcall.man

Stanley R. Clothier
1985 Highway 35
Kalispell, MT 59901

State President,
Montana Landlords Association, Inc.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 9
DATE 1-27-95
BILL NO. SB 218

DATE: Friday, January 27, 1995

TO: Senate Judiciary Committe

RE: Senate Bill 218

To All Whom It May Concern:

Please accept the following written testimony in support of Senate Bill 218.

I am the current president of the Montana Landlords Association and operate Spruce Park Mobile Village in Kalispell. MLA now has in excess of 750 memberships including 76 mobile home parks. The majority of these memberships are couples and families with "Ma & Pa" operations. In other words, these 1500 people generally own only 1 to 5 rental units or mobile home courts with 30 or fewer spaces. These couples are working hard and have worked hard over the years to build a small business that they can depend on. They are paying mortgages and taxes that would stagger many lesser individuals.

In 1993, the legislature passed the measure which became 70-24-436 of the Montana Residential Landlord Tenant Act, requiring the owner or operator of a mobile home court to comply with a specific list of reasons for eviction of a tenant. We are not requesting, nor do we expect the repeal of 70-24-436 even if we would like it to happen.

The trainer of the Montana Justice Court, City Court and Municipal Court judges in the area of the MRLTA has been instructing the judges to interpret the law in a manner that requires a 90 day notice prior to the eviction procedure in every case including late rent. (Please see the highlighted section of the accompanying pages 136 & 137 from Klaus Sitte's book For Rent published in 1994.) The practical effect of this teaching of 70-24-436 has been that one local mobile home park (Half Moon Trailer Park in Columbia Falls) has had to live with tenants who were breaking into storage units for this 90 day notice period. There are other examples available.

Although 70-24-346 specifically refers to the procedures in 70-24-422, the time periods given in 70-24-422 are completely ignored in the instruction of our judges. It is our hope that this legislature will allow us to operate our courts in a manner that protects the

other tenants. The neighbors in Half Moon also had to live for an additional 90 days with the thieves they had reported to the sheriff and testified against in criminal court because of the interpretation of this law.

Please help us solve the problem.

Thank you for your patience and consideration.

Sincerely,

Stanley R. Clothier, President
Montana Landlords Assoc.

EXHIBIT 9
DATE 1-27-95
SB 218

subsection (2)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(3) (a) A landlord may terminate the rental agreement of a mobile home owner or a tenant of a mobile home owner if the landlord, by the termination:

(i) does not violate a provision of this section or any other state statute; and

(ii) has a legitimate business reason.

(b) A landlord shall give the mobile home owner or the tenant of a mobile home owner a minimum of 90 days' written notice of termination.

(4) For purposes of calculating the total number of notices given within a 12-month period under subsection (1)(b), only one notice per violation per month may be included in the calculation.

History: En. Sec. 2, Ch. 470, L. 1993.

Compiler's Comments

Effective Date: Section 5, Ch. 470, L. 1993, provided: "[This act] is effective 30 days after passage and approval." Approved April 21, 1993, effective May 21, 1993.

This is an entirely new section passed by the 1993 Montana Legislature. It establishes specific reasons for the termination of a rental agreement where only a trailer park lot is being rented. If the individual is renting the mobile home itself from another person who owns the mobile home, this section does not apply.

The Montana Legislature recognizes that moving a mobile home from a mobile home park lot is expensive and time consuming.[92] In many Montana communities, where there is a shortage of trailer park space, such a move is often impossible. Acknowledging the difference between moving personal belongings and moving an entire house, this section establishes certain specific requirements before a termination of a lot rental agreement may occur.

The ten described reasons are intended to provide a framework in which responsible trailer park lot tenants and trailer park owners can carry out their relationship. For example, consistent with the entire MRLTA, there is no protection for a tenant who fails to pay rent. Chronic rule violators, late rent payers and/or those posing danger to others will have their rental agreements lawfully terminated. Yes, termination rules will need to be properly followed.

Some parts of Subsection (1) deserve special mention. Subsection (1)(b) refers to the written notice required by Section 70-24-422, which, in the case of a mobile home, refers to the 15 day notice requirement for failure to pay rent. However, the 15 day notice requirement must be read with Subsection (3) of Section 70-24-436. Subsection (3) is crystal clear: a mobile

[92] The Legislature made that distinction clear when Section 70-24-422 (2)(b) was added to require 15 day notice for failure to pay lot rent versus 3 day notice for other dwelling units.

© Klaus D. Sitte

home park owner must provide at least a 90 day notice of termination to a mobile home owner. The notice requirement of these two sections (70-24-422 and 70-24-436) must be explicitly followed in order for the notice to remain valid.

TIP

A valid notice to a mobile home park owner who has failed to pay rent would read as follows:

> Dear Tenant:
>
> You have failed to pay your rent due on the 1st of the month. Please pay your rent within the next 15 days. If you fail to pay rent within that time, our rental agreement will be terminated. You will then have 90 days to move your trailer from this trailer park.
>
> /s/ Landlord

The landlord may also add that the tenant must still pay rent for the intervening period until the end of the 90 days or that payment of the rent after the 15 day period will not affect this notice. Even a warning that failure to pay rent will cause court action may be added. As long as the basic provisions are included -- the **pay up or get out** concept -- then the notice will be valid. If the tenant pays within the period, this particular notice, in and of itself, will not be grounds for the termination of the rental agreement.

If a tenant has received three such notices in a 12 month period, the landlord may terminate the rental agreement, regardless of whether the tenant paid the rent after receiving previous notices. The chronic late payer reason then becomes the cause for termination. See Subsection (1)(b).

Subsections (1)(c) through (1)(f) refer generally to violations of mobile home rules and the tenant's responsibility for maintaining the premises. These subsections do not specify how notice for violations are to be given. Some situations may require quick resolution, while others may not be as serious. Compliance with the rule, for example, may be more important than termination with the rental agreement. Three quick notices to build a record for eviction may not be as important as curing the problem.

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218-2
Judy Gardner

THE GROWTH OF MOBILE HOME OWNERSHIP IN MONTANA AND ATTENDANT PROBLEMS

Prepared by Montana People's Action

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 10
DATE 1-27-95
BILL NO. SB 218

INTRODUCTION

A decline in the real purchasing power of Montana families, in conjunction with a significant increase in the cost of housing in the Treasure State - brought on in no small part by a new wave of immigrants looking to live in the "last best place" - has caused a dramatic increase in the number of Montanans living in mobile homes over the last decade.

In fact, according to the 1990 U.S. Census, *the increase in the number of mobile homes in Montana over the last ten years is equal to 79% of the overall increase in the total number of occupied housing units in the state.*

Table

Increase in Number of Total Occupied Housing Units, Mobile Homes, Montana

	1980	1990	Increase
Occupied Housing Units	283,742	306,153	22,411
Mobile Homes, Trailers	40,787	58,556	17,769

Montana People's Action (MPA) currently estimates that there are over 160,000 Montanans living in mobile homes and that an estimated 110,000 of them live in the state's 1,200 licensed mobile home courts or trailer parks.

It is MPA's contention that Montana families living in mobile home courts are a large, at-risk population that deserves increased statutory protection, for the reasons outlined below. The vast majority of these Montanans own their own homes.

PROBLEMS

Many courts have deficient water and sewer systems. Over the last two decades, very few new mobile home courts (MHC's) have been built. Many courts operate with their own aging water and sewer systems and are not hooked up to municipal or other water and sewer systems. State law requires MHC's that operate their own systems to provide a licensed operator yet very few courts employ them, let alone have them on-site. Court water systems are supposed to be tested on a monthly basis but this requirement is not strictly enforced by local health departments and

inspecting MHC's is not a priority for local health departments. Practically every community in the state has a "trailer court" water and sewer horror story to tell.

Courts are full, and there is no competition in the mobile home court "marketplace". The dramatic increase in the number of Montanans living in courts, the limited construction of new courts, and rapidly rising land values which prohibit many families - particularly in urban and high growth communities - from buying a patch of ground to the place thier home on, mean that mobile home owners have limited choices when it comes to finding a place for their home. Furthermore, despite their name, mobile homes are immobile, costly to move, and are often damaged in the process. Under these circumstances, court owners can raise rents at will, provide little or no maintenance, and actually reduce the services they provide knowing that court residents are unlikely to move their homes because there are so few available spaces and moving is costly and time-consuming.

Many court owners make it difficult for residents to sell their homes. A significant part of the value of a mobile home is its site. Under current Montana law, court owners can block a mobile home owner's sale of their property by not approving the purchaser as a new tenant. This often means that mobile home owners who wish to sell their home and move are forced to sell their home to the court owner at a price which is well below its value. Owners can then re-sell the home at its true value or turn the home into rental property which will command a monthly rent which is far greater than the lot rent paid by home owners in the court.

Many home owners face discrimination based on the age of their homes. As courts have become full, and the value of a court space has increased, many court owners have taken steps to remove older homes from their courts. When it comes time to sell their homes, many mobile home owners who have invested thousands of dollars in improving their homes are told that the only way they can sell their home is if it is removed from the court. This makes a mobile home almost impossible to sell given that most prospective buyers want to buy and move in and not have to buy, locate a space, and move their new home.

Some courts require "entrance fees" as a condition of locating your home in them. Others charge fees for the right to sell your home and keep it in place. In both situations, court owners are taking advantage of tight markets to extort additional money out of mobile home owners.

Some court owners have financial relationships (often called "tie-ins") with mobile home dealers. This means that owners have an incentive to evict owners of older homes (or tenants who may be assertive about asking for maintenance) to find spaces for newer ones.

SUMMARY

The problems outlined above are just some of the problems which face tens of thousands of Montana home owners living in mobile home courts. These Montanans are mill workers, secretaries, small business owners, retirees, teachers, laborers and professionals. The problems they face - which MPA can document thoroughly with personal testimony - are due to the distinctiveness of their homes. They own homes that are difficult to move and there are very few mobile home court spaces available in Montana communities.

As mobile home ownership has increased across the country, many states - particularly western states where mobile home ownership is high - have increasingly found reasons to regulate the mobile home court industry. Twenty-nine states (including Montana) now require "Good Cause" eviction, twenty-two states (including Montana) require that court rules be fair and reasonable, twenty-eight states (not including Montana) allow home owners to sell their homes within their courts, and twenty-three states (not including Montana) prohibit court owners from charging extra fees.

Undoubtedly, the majority of mobile home court owners are responsible individuals doing their best to provide a decent product for a fair price. But there are also undoubtedly many court owners who take advantage of the vulnerability of today's mobile home court resident in Montana.

It is MPA's contention that the good court owners have nothing to fear from increased scrutiny on the part of the state.

At a minimum, the state should pass laws which protect mobile home owners' right to sell their property without undue interference, and provide this at-risk population with educational resources so that they know the laws which affect their tenancy. There are approximately 8,000 nursing home residents in Montana and we have established the office of the Nursing Home Ombudsman to meet their informational needs. There are over 110,000 Montanans living in mobile home courts. Why shouldn't they have an ombudsman as well?

EXHIBIT 10
DATE 1-27-95
SB 218

STATE OF MONTANA
MOBILE HOMES AS PERCENTAGE OF HOUSING UNITS
BY COUNTY FROM 1990 CENSUS

	1	2	3	4
	TOTAL #	NUMBER OF	MOBILE HOMES	EST. # PERSONS
COUNTY	HOUSING UNITS	MOBILE HOMES	AS % OF UNITS	LIVING IN MH'S
Beaverhead	4,128	970	23%	2,668
Big Horn	4,304	847	20%	2,329
Blaine	2,930	398	14%	1,095
Broadwater	1,593	409	26%	1,125
Carbon	4,828	748	15%	2,057
Carter	816	215	26%	591
Cascade	33,063	3,786	11%	10,412
Chouteau	2,668	452	17%	1,243
Custer	5,405	723	13%	1,988
Daniels	1,220	132	11%	363
Dawson	4,487	600	13%	1,650
Deer Lodge	4,830	414	9%	1,139
Fallon	1,525	303	20%	833
Fergus	5,732	1,048	18%	2,882
Flathead	26,979	4,764	18%	13,101
Gallatin	21,350	3,350	16%	9,213
Garfield	924	235	25%	646
Glacier	4,797	880	18%	2,420
Golden Valley	432	88	20%	242
Granite	1,924	432	22%	1,188
Hill	7,345	1,136	15%	3,124
Jefferson	3,302	795	24%	2,186
Judith Basin	1,346	259	19%	712
Lake	10,972	2,007	18%	5,519
Lewis and Clark	21,412	3,606	17%	9,917
Liberty	1,007	205	20%	564
Lincoln	8,002	2,089	26%	5,745
Madison	3,902	770	20%	2,118
McCone	1,161	231	20%	635
Meagher	1,259	327	26%	899
Mineral	1,635	537	33%	1,477
Missoula	33,466	5,311	16%	14,605
Musselshell	2,183	485	22%	1,334
Park	6,926	1,190	17%	3,273
Petroleum	293	80	27%	220
Phillips	2,765	616	22%	1,694
Pondera	2,618	387	15%	1,064
Powder River	1,096	353	32%	971
Powell	2,835	548	19%	1,507
Prairie	749	121	16%	333
Ravalli	11,099	2,096	19%	5,764

Richland	4,825	810	17%	2,228
Roosevelt	4,265	662	16%	1,821
Rosebud	4,251	1,343	32%	3,693
Sanders	4,335	1,065	25%	2,929
Sheridan	2,417	359	15%	987
Silver Bow	15,474	1,430	9%	3,933
Stillwater	3,291	704	21%	1,936
Sweet Grass	1,639	225	14%	619
Teton	2,725	421	15%	1,158
Toole	2,354	370	16%	1,018
Treasure	448	105	23%	289
Valley	5,304	510	10%	1,403
Wheatland	1,129	211	19%	580
Wibaux	563	123	22%	338
Yellowstone	48,781	6,255	13%	17,201
TOTALS	361,109	58,536	16%	160,974

1) Total number of housing units, occupied and unoccupied, from U.S. Census.
2) Total number of "Mobile home, trailer, other" from U.S. Census.
3) Column 2 as a percentage of column 1.
4) Column 2 times 2.75 persons per household.

Taking Aim at Trailer Park Tyranny

Mobile home parks are a largely unregulated industry in many states. They may not stay that way much longer.

BY CHARLES MAHTESIAN

There are no trailer parks in Ellen Harley's suburban Philadelphia district. Nevertheless, she finds herself this spring as the chief sponsor of a bill to do something her legislature has been reluctant to do in the past—place tougher state restrictions on mobile home dealers and park owners.

Representative Harley's interest in the subject reflects in part her background as a city and regional planner. But even more, it reflects the arrival of mobile home regulation as an issue that legislatures all over the country are going to have to grapple with.

Up to now, few governments at any level have had much desire or reason to get involved with policing mobile home or trailer parks. Few localities want them, and those that have them usually prefer that they stay hidden away in some out-of-sight cul-de-sac. But it is no longer possible to keep them out of sight politically. The problems created by a little-watched industry are forcing their way to public attention as Americans turn to "manufactured housing" in their search for affordable places to live.

At the extremes, these problems can border on the Orwellian. There are trailer parks where residents are not allowed to have food delivered after a certain hour, or have a visitor of the opposite sex. There are others where the terms of the lease are altered according to the applicant's marital status, religious affiliation or sexual orientation. There are some in which, during the Christmas holidays, residents have to pay a fee for each guest who stops by to pay a call.

All rules of that sort are clear violations of federal housing law. But they are documented cases that have turned up in various parts of the country where state law regulating the parks is weak or nonexistent. "Some of the parks turn into absolute dictatorial arrangements," says John Jensen, past president of the National Foundation of Manufactured Home Owners. "The landlords think

No one is claiming that trailer-park fascism is the typical situation. But the horror stories have multiplied because the parks themselves grew so fast in the 1980s. Overall, production of mobile homes is down in the current recession, but in the 1980s, they were the fastest growing-type of dwelling. In the nation as a whole, about 1 in 16 people now live in manufactured homes. In some states, such as South Carolina and Wyoming, the number is closer to 1 in 6. In four Nevada counties, mobile homes make up more than half of the housing units. Even in Pennsylvania, not known as a warm-weather sanctuary, there are now 250,000 mobile homes.

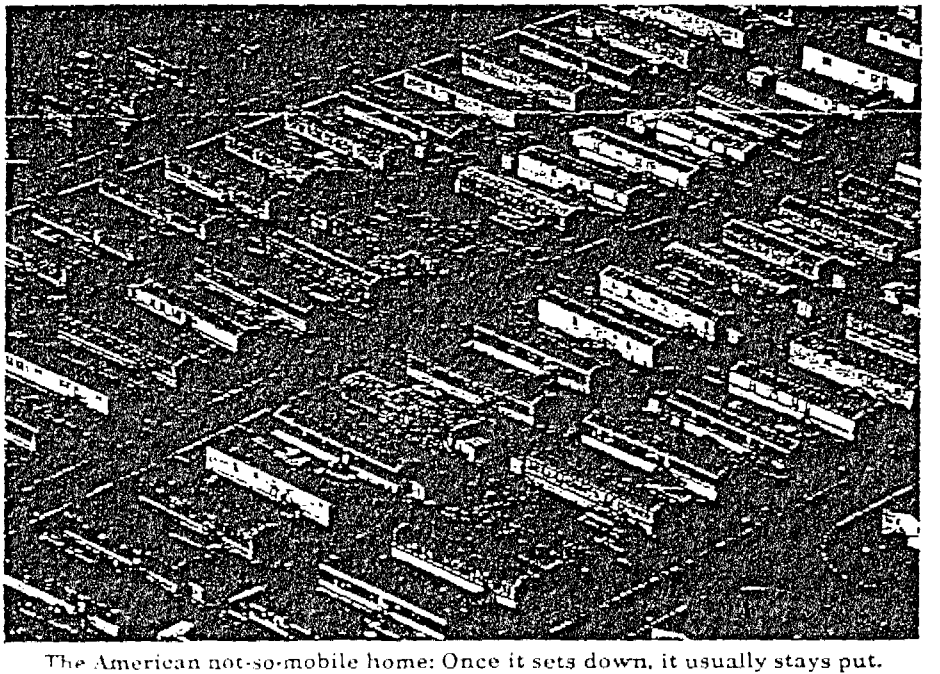
THEY ARE A SYMBOL OF HARD economic times, hard enough to lead lower-income and middle-class families and millions of retired people to seek refuge from unmanageable housing costs. A mobile home depreciates in value every year, but at about $20,000, a new model suitable for a couple or small family sells for a fraction of the price of conventional housing, even in the nation's cheapest housing markets.

Actually, the term "mobile home" or "trailer" is hardly used anymore—at least within industry circles—because it tends to conjure up visions of run-down, dilapidated vehicles crowded together in a rural shantytown.

Instead, the manufactured housing industry prefers to call its traditional products "single-sections," as opposed to the larger and more aesthetically pleasing "multi-sections." The multi-sections consist of several discrete manufactured segments, delivered on a flatbed and assembled on site. The single-section mobile home, in contrast, is towed to a site without a permanent foundation. It rests on wheels and a chassis.

Nowadays, only units made before 1976—the year the U.S. Department of Housing and Urban Development established a national code for manufactured housing—are called mobile homes. Everything after that point is referred to as manufactured housing.

But the semantics are of less concern than the practices of the operators, particularly in states such as Pennsylvania, where the law gives the individual home owner very little protection. There, the state attorney general's office accidentally uncovered an undercurrent of outrage while laying the groundwork for an antitrust lawsuit against a mobile home dealer in Lancaster County. In the course of the investigation, enough complaints surfaced to justify creation of a special task force on manufactured hous-



The American not-so-mobile home: Once it sets down, it usually stays put.

ing. "It was becoming increasingly obvious that we needed to take a hard look at the laws," says Dan Clearfield, director of the public protection division.

What was happening in Pennsylvania was this: Mobile home park owners were steering purchasers to a specific dealer in exchange for a share of the dealer's profits on the sale. It amounted to coercion, because home buyers typically must secure a space in a park before purchasing, and with spaces limited in a given area, they are not in a position to reject the park owner's instructions on where to buy the home, even if they must pay a higher price as a result. In most states, including Pennsylvania, tie-ins between dealer and park owner are legal. In fact, dealers themselves are the park owners in many instances.

It is in these situations, with spaces at a premium, that mobile home owners are sometimes forced to swallow arbitrary lifestyle restrictions or capricious increases in the rent for their space. "The core issue with mobile home parks is that a mobile home is not really mobile," says Jon Sheldon of the National Consumer Law Center. "Once you're there, you're stuck. It's too expensive to move if your rent is increased."

Some 18 states now require written terms in the leasing of trailer park space, but even this represents little protection, since only four of those states require a lease term of a year or more. With the leases shorter than that in most places, rent can be raised at virtually any time, and there is little redress available for the tenant. Moving away is usually an unrealistic option—it can cost $6,000 to move a home that is barely worth that much on the market. Furthermore, some landlords impose sales conditions that make it nearly impossible to unload a used home, forcing the home owner to sell it back to the landlord himself at a discount price.

Dan Gilligan, vice president of the Manufactured Housing Institute, says many of these complaints are unjustified, or the result of isolated instances. "Every industry has its oddballs," says Gilligan. "We're not interested, as some of the more militant groups would portray us, in running prison camps. We're interested in having happy customers."

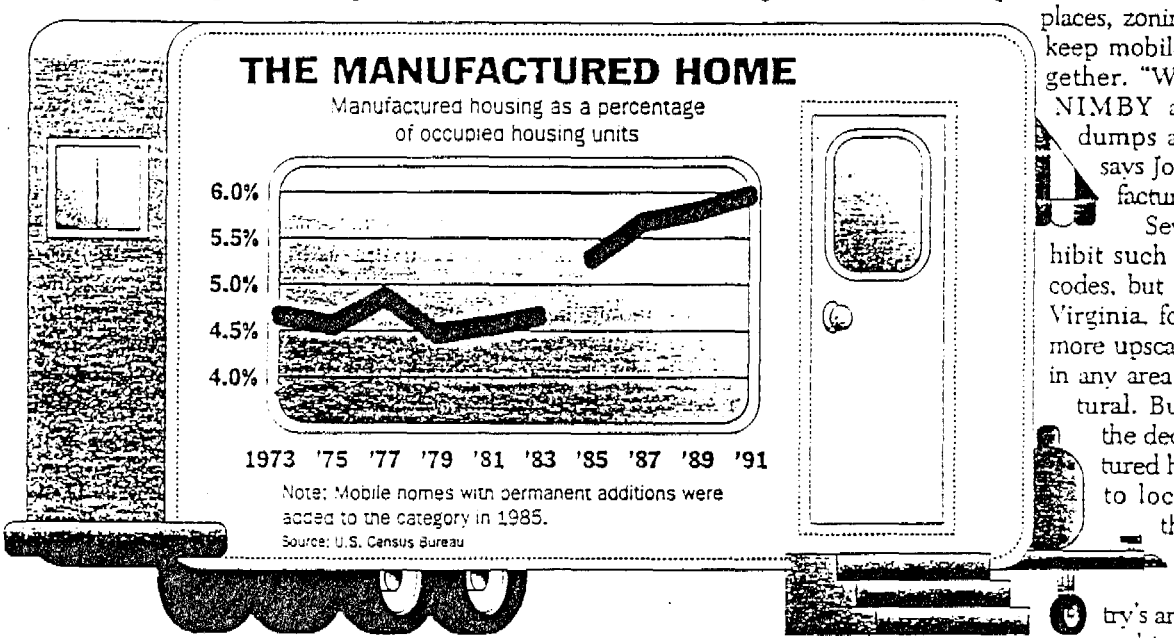
THESE DAYS, HOWEVER, STATE and local governments are finding themselves under growing pressure to force the industry to take customers' rights seriously. In the past, the unorganized and economically distressed home owners have had little pull in state capitols, especially compared with the well-financed dealers and park owners. But that is changing as a slightly higher-scale group of people with some political sophistication moves into manufactured housing. "More and more middle-class people are buying these homes," says Harley, the Pennsylvania legislator. "And when it becomes a middle-class issue, it becomes a political issue."

The two states with the highest number of mobile homes, Florida and California, both have well-organized ho owner organizations that have lob for written lease terms and stricter lan lord maintenance obligations. York's mobile home owners gave up bying the legislature and instead took their fight to individual counties, where they have won passage of laws ban arbitrary eviction.

On some important issues, there reasons for the home owners and park owners to work together. In m places, zoning laws are design keep mobile home parks out a gether. "We're classified by NIMBY along with landf dumps and cement factor says John Jensen of the M factured Home Owners. Seventeen states now hibit such discriminatory zo codes, but those laws vary w Virginia, for example, allow more upscale, multi-section ho in any area zoned rural or agricul tural. But outside these a the decision to allow man tured housing of any sort is up to local jurisdictions. they, as a rule, will listen to the manu tured housing ind try's argument that the ne multi-section homes are a tecturally and aesthetically compat with conventional developments. T knock is that manufactured housing- matter how attractive—drives d property values.

When the homes are of the old-fa ioned single-section variety, the st is often impossible to overcome. "T are a tremendous amount of local erniments around the country savin single sections, period,' " says A Scholz, director of site development for the Manufactured Housing Institute. "The problem that they tend to ove is that there are a lot of people who want single-section homes."

Home owners and park owners can thus find common ground whe comes to lobbying for permission plant themselves in a community. O they are planted, though, their inte collide. Harley insists it need not be way. "The good community own have no problems with these regula tions," she says. "The baddies are only ones who have problems them."


THE MANUFACTURED HOME
Manufactured housing as a percentage of occupied housing units
6.0%
5.5%
5.0%
4.5%
4.0%
1973 '75 '77 '79 '81 '83 '85 '87 '89 '91
Note: Mobile homes with permanent additions were added to the category in 1985.
Source: U.S. Census Bureau

2P_3
FLEISCHMAN

County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT

POST OFFICE BOX 35033
BILLINGS, MONTANA
59107

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 11
DATE 1-27-93
BILL NO. SB 218

January 28, 1993

Dennis McCord
118 South 30th
Billings, MT 59101

Dear Mr. McCord,

I would like to thank you for inviting the Yellowstone City-County Health Department to the Blaine's Trailer Court Tenants Association meeting. However, no one from our staff will be able to attend the meeting scheduled on January 29, 1993 at 7:00 p.m.

I will try to address your concerns and answer the questions about inspections and procedures in handling complaints.

Trailer courts are regulated under Title 50, Chapter 52, MCA (50-52-101 through 50-52-303). Inspections are conducted under Title 16, Chapter 10 Subchapter 7, ARM (16.10.701 through 16.10.717).

The Yellowstone City-County Health Department conducts compliance inspections of each trailer court in Yellowstone County a minimum of once per year. Additional inspections may be conducted in response to complaints. These types of inspections are usually made due to garbage, sewage or nuisance complaints.

If violations are found during an inspection the owner or manager is given written notice of the violation(s) and given a specified time period to abate the noted violation(s). If non-compliance of any violation occurs and is not corrected, the Yellowstone City-County Health Department requests that the Yellowstone County Attorney's office proceed with any enforcement action, which could include fines and, in extreme cases, an injunction to close the trailer court. In all cases we try to work with owners and complainants to achieve quick and satisfactory abatement of the problem.

It must be pointed out that the Yellowstone City-County Health Department does not have statutory authority for enforcing violations that are covered under the Landlord-Tenant Act.

Situations that are caused directly or indirectly by landlord such as no heat, electricity or water come under the Landlord-Tenant Act. It is recommended, under these circumstances, that the tenant seek legal counsel or call Montana Legal Services at 248-7113 or file under Small Claims Court.

It must also be mentioned that if a landlord or owner refuses to abate certain violations or nuisances, the Yellowstone City-County Health Department's only recourse is to have the house or trailer closed to occupancy. This would require the tenant or renter to move within 30 days.

Complaints are confidential and our office does not give names of complainants, however, landlords have been known to give written eviction notices when notified about complaints. Our office has not control over these types of actions.

If our office cannot help in a particular situation we will always try to direct you to the proper agency where help may be obtained.

If you have any further questions, please call 256-2752

Sincerely,

Ted Kylander

Ted Kylander, R.S.

TK/ajt

cc: Vicki Coonfare, 206 Jim
Les Protopapas, 618 Richard

enclosures

218 - 4

also - Mecham

MONTANA LEGAL SERVICES ASSOCIATION
304 North Higgins Avenue
Missoula, MT 59802
(406)543-8343
1-800-666-6899
FAX (406)543-8314

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 1-27-95
BILL NO. SB 218

Klaus D. Sitte
Managing Attorney

Hilary Bush
Attorney

Les Ochs
Attorney

Support Staff
Susan Brandon
Laura Danforth
Jon Howard

Paralegal
Mary Ann Zeimet

MEMO

DATE: January 25, 1995

TO: Senate Judiciary Committee

FROM: Klaus D. Sitte

RE: Senate Bill 218

Please accept the following written testimony **in opposition to** Senate Bill 218.

By way of introduction, I am a co-author of the 1977 Montana Residential Landlord and Tenant Act (MRLTA) and author of *FOR RENT: The Complete Montana Landlord and Tenant Guide*. I have worked in the landlord/tenant area of the law for over 20 years. I regularly train Montana Justice Court, City Court and Municipal Court judges in landlord/tenant law. During 1994, over 300 **landlords** attended seminars I conducted in this specialty area. Both landlords and tenants alike have sought my counsel on the MRLTA.

The proposed legislation will effectively reverse legislation passed just two years ago. Specifically, the elimination of subsection (3) of §70-24-436 completely alters the essential meaning of the entire section, so as to remove the *good cause* requirement for eviction from mobile home parks. Instead, the bill seeks to substitute new subsections (2)(j) (i) and (ii), which allows 90 day termination for **no cause**.

In my travels and training throughout Montana, I have regularly asked landlords and judges for any adverse effects of the *good cause* requirement for mobile home evictions. I have received **no** response that §70-24-436, as it exists, unreasonably or unnecessarily penalizes **good** landlords. On the contrary, several justice court judges have reported to me that the present section has prevented unjust, unscrupulous and down-right unfair terminations.

Remember, 70-24-436 protects only **good** tenants. Tenants who fail to pay rent, tenants who are chronically late with payments, and tenants who have no respect for park rules have **no** protection through *good cause*. To remove the present language would allow landlords who simply do not like tenants

to evict them upon 90 days notice, as was the case in the past.

How many of us, as home owners, would feel safe or comfortable if our mortgage lender, for example, could ask us to leave our homes without cause? Is it reasonable for **mobile home owners** to be subjected to this uncertain jeopardy? Tenants have long felt unable to speak out on mobile home park conditions for fear of eviction. Home owners should not feel so threatened.

Next, the bill seeks to inject law enforcement officials into what is, and always has been, a **civil** area of the law. By adding the proposed subsection (5) to §70-24-427, the MRLTA practically becomes a civil procedure code, not a landlord and tenant code. Nowhere else in the MRLTA is the **sheriff** mentioned or directed to take a particular action. It seems particularly egregious to allow a landlord this specific remedy against a **homeowner**, when the homeowner has no extraordinary remedy against the oppressive landlord. What special remedy does a tenant receive when essential services are improperly disrupted or stopped by a ruthless landlord?

The MRLTA should remain consistent: when, and if, the landlord wins a case and receives judgment, the landlord may follow regular civil procedure rules to enforce judgements, just like any judgment holder in Montana. As long ago as 1871, the Montana Supreme Court has said that landlords need to follow civil procedure rules. Landlords win justice court cases at least 65% of the time, according to my discussions with justice court judges. Good landlords need no special protections from the courts; decent landlords rarely need to resort to court. Those who do find adequate remedies in the MRLTA and the law. We should not create special remedies to serve a particular class of citizens, as opposed to another class of citizens.

Passage of the proposed amendments would substantially undermine the thoughtful and thorough work of the 1993 Legislature and effectively repeal significant sections of the code. When Gov. Racicot signed the present law during the 1993 Legislature, it became effective earlier than most bills because of the vital importance to mobile home owners. The importance of *good cause* has not diminished since then.

There are adequate remedies available to good landlords who act responsibly to good tenants. Reasonable landlords and reasonable tenants resolve disputes on a regular and daily basis. No one has the "upper hand." The balance presently afforded to landlords and tenants in the MRLTA needs to be preserved.

LEXLEYGRAM

Jan. 29, 1994

218-S
also
(2) pages

Because of new laws passed in the last legislative session, the costs of managing mobile home parks has gone up. (It now costs more to evict bad tenants.)

RENT MUST BE INCREASED $15.00 EFFECTIVE MARCH 1, 1994.

The utility bill for the park is up again. Remember rent paid late.... after the 5th....is $25 higher.

NO NEW DOGS!!! All pets should be registered at the office with picture, neutered, collared and tagged. If I find a loose pet, it will be taken to the Humane Society. NO BARKING DOGS!

Please keep your yards clean - no outside storage. The park is looking better. but we still have some bad looking homes that need paint and repairs. The grass is thawing, so you may have to stop parking on it so it does not get damaged or rutted.

For me to evict, I need your complaint signed. Just Cause Eviction takes away my rights to evict and keep you out of it. Now to evict drug dealers, child molesters, and criminal types, I have to prove they did it here. Thank You "Just Cause Eviction". Good people are the victims by not speaking against the Just Cause Eviction bill. I need your help and cooperation.

Jerry Swenson
388-6095

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 13
DATE 1-27-95
SB 218

Lexley Views 1993 March 24th

Its time to clean up yards, no outside storage on the grass of any kind (no parking on the grass!!) (no dumping garbage on the ground!!) (There is no longer a brush pile!!) To state health code says no outside storage!!) (the dumpsters are just for Kitchen garbage!!) no big household items like furniture, stoves, fridges, washer & dryers. no lumber or remodel waste.

The change I hate to have to do is rent has to go up $15.- may 1st to pay for new roll, increased garbage costs, & legal costs to get rid of bad renters has gone up dramatically! It look like we'll be going back to cans to get rid of the dumpsters that are a mess.

No new dogs! Dog owners that don't pick up dog pings daily will be evicted! Dogs must not trespass on others yards! If you get a new dog you will be evicted! All cats dogs must be neutered & tagged. All fences must be of the good neighbor type, "look good on both sides!" If you wish to sell your mobile remember you don't own the lot

Rent paid late after the 5th must include $25 more for late charges. Rent is due on the 1st late on the 6th!

Toys must also be picked up nightly. Lawn mowers need to be inside too. Nothing left on the lawn but mobiles & sheds.

The park is looking a lot better but we still have a way to go. Thanks for your cooperation & help to make this a better place to live.

The newspaper printed a lot of lies & half ~~the~~ truths. I did not disinfect the faucets enough when I took water samples. Never was the system bad it was two samples not seven.

Stenhagen was not evicted because of the age of his mobile! Marvin was evicted (1st) & then she filed a complaint (2nd). I go by the yard condition & the ledger! Do they pay on time?

Call Nit. Power & Cable TV & telephone before you dig!! It could be shocking

Thanks,
Jerry

It is time for spring cleaning. No outside storage! Get a shed.
I'm looking for the worst yard in each street to evict.

I'm also looking for:
- new dogs!! loose pets!! barking!! all dogs + cats must be registered + neut
- junky yards (no outside storage on the lawn against the mobile or behind
- Bikes + toys must be stored when not in use!!
- late rent payers after the 5th (evictions on the 10th)
- no dumping garbage on the ground instead of in the dumpsters! I will pa
reward for the name or license plate # of persons dumping on the grou
people not from the park who use our dumpsters your name will
- no parking on the grass + no junk vehicles
- no hot ashes in the dumpster (must be cold + 2 days old)
- unskirted homes (must be skirted all 4 sides)
- unpainted wood (skirting, fences, porches, steps, + sheds) this spri
- any disturbing the peace + quiet of the park! no loud parties!
- Children must stay out of other peoples yards unless invited
no B-B gun shooting in the park
any damage to the playground area will result in your ev
I will not put up with children who mess with other peoples p
Let us all take pride in where we live and make this a bette
P.S. If you find any rocks kids might throw please put them in the dumpsters. We don't need broken windows!! Jerry Swenson 388-

Loring Manor 1/18/91

I'm still having lots of people calling for places to live.
I will be starting to evict again in Feb. by looking for:
- new dogs!! loose pets!! barking!!
- junky yards (no outside storage on the lawn, against the mobiles, or be
- late rent payers after the 5th (evictions on the 10th)
- dumping garbage on the ground instead of in the dumpster!
(I will pay a reward for the name or license plate # of persons who dumps
- junk vehicles
- parking on the grass
- hot ashes in the dumpster (must be cold + 2 days old)
- unskirted homes (must be skirted all 4 sides)
- unpainted wood skirting, fences, + sheds this spring
- any disturbing the peace + quiet of the park!

I want you to be proud of where you live; then I can be proud

P.S. The water tested good now! (on the 5th of Jan.) Jerry Swenson
388-6095

Best wishes in the new year.

218 6
Amend

MontPIRG

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 14
DATE 1-27-95
BILL NO. SB 218

Montana Public Interest Research Group
360 Corbin Hall • Missoula, MT • 59612 • (406) 243-2908

Testimony Against Senate Bill 218: January 27, 1995

The Montana Public Interest Research Group is a non-profit, non-partisan research and advocacy organization working for good government, consumer rights and sound environmental protection. MontPIRG has over 4000 members in Montana, with 2200 student members, and is funded with membership donations.

MontPIRG runs a tenant/landlord hotline, receiving more than 100 calls per month. Before the good cause evictions legislation was passed, we would get calls from mobile home owners asking if they "had any rights" because they felt they were being evicted unfairly and without reasonable notice. Last sessions' good cause eviction legislation provided landlords and tenants guidance regarding rules and procedure, creating a more equitable situation between them.

If Senate Bill 218 is passed, mobile home owners will be particularly vulnerable if there is no law protecting them from eviction without good cause. A mobile home can cost more than $2000 to move. In Montana, there are very few spaces at mobile home courts. Without good cause evictions, we create a situation in which the owner of the home may not be able to finance a move or find a place to put his or her home .

MontPIRG opposes Senate Bill 218 because it undermines good cause eviction legislation passed during the 1993 Montana Legislature. Good Cause Evictions passed with wide support from the citizens of Montana because only eviction with good cause is fair.

For these reasons, we urge you to oppose Senate Bill 218.

Kara Peete
2611 Upper River Rd. #26
Great Falls, Mt. 59405

218 - 7
Sen.
No testimony

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 15
DATE 1-27-95
BILL NO. SB218

January 26, 1995

Dear Senators,

In reference to Senate Bill 218: I am outraged to hear what is going on. After joing a residents association, I was harassed and threatened by my landlord. If it were not for "Good Cause Eviction" law, she would have evicted me and others who were standing up for our rights. By law, she is responsible for snow removal and an on site manager. But she refuses to provide these service. If this bill were to pass, I and others would definitly be evicted.

I am a single mother with 4 children that are depending on me to get through nursing school & provide a living for them. I am scared to death to even think what would become of us if this bill passed. Where would we go? Because of an age restriction my mobile home is to old to move into the only courts that have any room left. My mobile home is in excellent condition it has a shingled roof & wood siding, but that doesn't seem to matter.

in a Mobile home, so you wouldn't know the 1st thing about the rules & regulations that go into one. some rules are good, but most are ridiculous. it's like living in an Army barracks & should be illegal - but if this is the only place one can live we have no choice - this is our home a Castle -

if we looked at some of these so called rental homes & believe you me, they are abominable & these landlords have people over a barrel because there is no other place for them to go I'm sure there is not one landlord who can't put his hand on a couple of hundred dollars in a minute, if they needed something in a hurry but the Tenants can't get -

The landlords are making a hell of a profit on the misery & misfortune of other people - So please help them & help the "M.P.A." "Montana Peoples Action" to fight the landlords & kill the Bill 218 for humanetarian reasons also -

I'll be forever in your debt

Thanking you.

Sincerely.

Mrs. J. Mulkner
3805 - 7th St N.E. #62
Great Falls. 59404

P.S. If I get thrown out of the trailer court because of this letter & belonging to the MPA could I move into your yards or on the Capitol lawn? of course not. Please say NO to 218 vehemently There are more landlords than MPA members

over -

EXHIBIT 15
DATE 1-27-93
SB 218

2

me that she was selling
the place, & I had to have
an open house for people to
come & visit & see the home,
I couldn't be there, so consequently
I also had stuff taken, -
as a result of this I decided that
I had to move, (the house finally
sold altho it took months)
I found this trailer & decided
I would like my own castle
so a very good friend loaned
me the money to buy it -
First is to get the manager
to put some grass in but
to no avail & finally had
to do it myself as when it
rained it was a mud puddle
& I felt like "Noah" in the "Ark"
having but water all around &
no where to run to & still hasn't -
I doubt whether any of you
gentlemen have ever lived

Dear Sirs -

I am really angry to think that after all the work that [illegible] have done to protect people like me who live in a mobile home [illegible] should come to nothing if the "Bill" 218 passes -

I have lived in the Great Countryside Village for eighteen months & my rent has gone up from $155. to $177 for now, no doubt it will go up again another $10 or more now that the sewer & water rates have gone up in Great Falls -

I lived in a rented house before moving here, paying $400 a month - which I now had $600 coming in & also had to pay utilities as well - & every spring & sometimes fall, I would have the landlady come & talk

DATE 1-27-94

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 167, SB 218

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Ted Clack	DCHS - info only	SB 66		
Daniel N McLean	Oakland Holding Company	SB-218	✓	
Mary McCue	Mobile Home Park Owners	SB 218	✓	
John Shontz	MT Assoc Realtors	SB218	X	
Ronda Carpenter	Mt Housing Providers MHA IPM, WMLA	SB 218	X	
Michael J Pane	Mobile Home Park Tenant	SB218		✓
Susie Jones	Tenant	SB 218		✓
Andy Gardner	Montana People's Action	SB 218		✓
Bruce Hietala	Mobile Home Park Resident MPA	SB 218		✓
Paul Hively	MPA	SB 218		✓
Alice E Jarka	MPA	SB 218		✓
Rick VanAlstyn	MPA	SB 218		✓
Bob Christensen	MPA	SB 218		✓
Melissa Case	MPA	SB 218		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE Jan 27 1995

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 167 SB 218

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Nancy Weinzettel	Montana People's Action	218		—
Lela DeCock	M P A	218		✓
Alice E Jacks	MPA	218		
Ed Caplis	MSCA	218		
Ken Kraft	T.R.A. mail	218		✓
J.V. Bennett	Mont PIRG	218		✓
Ken Van Stockum	MPA	218		✓
Edward Bacon	MPA	218		✓
Jeff DuFree	MontPIRG	218		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

amendment, of what they will be doing and what the effect would be if you take out the words, "this full". This would need to be stated in the title as well as in the for and against clauses, she said.

SENATOR BISHOP asked the committee to imagine what the consternation and confusion would be to the voters on something like just taking two words out of the Constitution? He agreed with **SENATOR DOHERTY** and said they should tell people exactly what they're doing.

SENATOR HALLIGAN said if they were going to tell the truth, the truth would be that they don't need the bill.

Valencia Lane suggested they use the word, "clarify" to amend the Constitution.

CHAIRMAN CRIPPEN decided to consult **SENATOR EMERSON,** the sponsor, before any further proceedings.

EXECUTIVE ACTION ON SB 218

Discussion: **CHAIRMAN CRIPPEN** asked the committee to look at Page 4. He said concern had been raised by the landlords that some of the time periods were in question. He asked **Melissa Case, who represents Montana Peoples' Action,** to speak on the bill. He said he thought they wanted to go back to the 14-day period for late payment. If the renters were late three times in one year, it would be tantamount to non-payment.

Melissa Case said that this was one of the major problems that the landlords had. She did not think they wanted to go from 90 to 30 days.

CHAIRMAN CRIPPEN said that the courts had been viewing this as 90 days, which had not been the legislature's intention two years ago. There were reasons to reduce the time limitations, and non-payment was certainly one of them. They had gone to 15 days for that, he said.

Melissa Case asked if he meant on Sub. B, she asked? He agreed. She said they would be amenable to something like 30 days. She thought 15 days was too short. On Subsection E, it talked about two or more violations in a 12-month period, and she said they would agree to have it remain as is, 90 days. If there was a proposal to decrease it, they would have a problem.

CHAIRMAN CRIPPEN asked about Sub. G., which discusses peaceful conduct. It had been 30 days, and a good argument was made for 14 days, he said. He thought they were in agreement on this subject.

SENATOR LARRY BAER said he would not agree. He asked the committee to read 70-24-422 where it provided for a five-day notice if the tenant is habitual in this type of breach. This would apply if they are renting the trailer and the land; 15 days would be provided if they're only renting the space. He saw a significant problem for the landlord having to wait 90 days to remove a habitual offender. He said it would be an overbearing hardship. He was referring to Line 9, Page 4.

CHAIRMAN CRIPPEN said they were trying to strike a balance. The problems were: 1) late payment of rent and 2) two or more violations within a 12-month period. His recommendation was to leave (e) at 90 days but on (b) to move it down from 90 days to 30 days because if they would not pay, they would be out in 14 days anyway.

SENATOR BAER said he would prefer 30 days in either situation and no more.

CHAIRMAN CRIPPEN said he would oppose that on (e). In a show of hands it was determined to change (b) to 30 days.

Greg Van Horssen said SubSection E., Line 16, regarding 90 days written notice for two or more violations of the same rule, he rearticluated conversation of the previous day and stated their concern in the lengthy period of notice for a repeated rules violator was for the well-being of the community. Peace and quiet is sometimes destroyed by a barking animal of other rules violation. Three months must pass while neighbors put up with the problem. In the interest of peace, needs and wants of the complying members, he suggested modifying this down to 14 days.

CHAIRMAN CRIPPEN said many of those rules would be covered by rules in the court. He said he thought 90 days would be sufficient.

SENATOR BAER said the issue was a contractual obligation where two parties had already agreed to the rules and one party keeps breaching the contract by violating. It would penalize the non-violating party by extending the time period. It would not be equitable, he said.

SENATOR NELSON said she would like a compromise.

It was decided to change Page 4, Line 9, Subsection (b) to 30 days.

Valencia Lane explained the marking on Page 4. Line 12. Where she had 14 days under 422(1), it should be three days, under 422 (3). On Lines 6, 12, 15, 18, 21 and 25 there are words written for clarification for applied time limits. The written-in words are amendments, she said.

Motion/Vote: **SENATOR BISHOP MOVED TO ADOPT THE AMENDMENTS AS**

CONTAINED IN (EXHIBIT 2), Items 10, 11, AND 12. The **MOTION CARRIED** unanimously on oral vote.

EXECUTIVE ACTION ON SB 167

Discussion: **CHAIRMAN CRIPPEN** said the problem with the bill was the listing of specific mandates in the bill. He was concerned that the legislature would interpret the list to be all-inclusive. He thought the sponsor was agreeable to amending this list out. The language on Page 5, Line 3 would read, "federal statutes as accorded in the U.S. Constitution that imposes mandates on state or local governments." The Chairman thought it was broad, but it would give all the discretion to the legislature and the Governor to reject or accept the mandates.

Valencia Lane clarified that the committee was working with the grey bill dated February 1, 1995.

Motion/Vote: **SENATOR HALLIGAN MOVED THE AMENDMENTS ENCOMPASSING ALL OF SUBSECTION 3, PAGE 3, AND INCLUDING LINE 3 OF PAGE 4 TO ELIMINATE THE "LAUNDRY LIST".** The **MOTION CARRIED** unanimously on oral vote.

Valencia Lane explained that there were two sets of amendments. One was requested by the sponsor and prepared by **David Boyer** dated February 2, 1995 which do everything seen in the grey bill.

Motion/Vote: **SENATOR BISHOP MOVED TO ADOPT SENATOR BENEDICT'S AMENDMENTS NUMBER 016702 DATED JANUARY 31 AND TO CHANGE "OBPP" TO "GOVERNOR".** The **MOTION CARRIED** unanimously by oral vote.

SENATOR HALLIGAN said that his understanding of the amendments were that they would drastically reduce the fiscal note of the bill because of the removal of reporting requirements.

Valencia Lane explained that on Pages 14 and 15 of the grey bill, the sponsor's amendments which they had already adopted, struck references to the Legislative Council and the Office of Legislative Fiscal Analyst. She asked permission to strike the definitions if they were not in the bill. It was determined that this would not require a motion. She further questioned Page 4, Lines 12 and 13, the language should read "future mandates" and not just mandates on the date the bill was passed.

Motion/Vote: **SENATOR HOLDEN MOVED THAT THE BILL BE AMENDED ON PAGE 2, LINE 28, FOLLOWING "MANDATES" INSERT "EXISTING ON OR ADOPTED AFTER THE EFFECTIVE DATE OF THIS ACT THAT ARE IMPLEMENTED IN MONTANA."** The **MOTION CARRIED** unanimously on oral vote.

Motion: **SENATOR NELSON MOVED THAT SB 167 DO PASS AS AMENDED.**

1

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 2-8-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
wp.rollcall.man

SENATE STANDING COMMITTEE REPORT

February 8, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 218 (first reading copy -- white), respectfully report that SB 218 be amended as follows and as so amended do pass.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, lines 6 and 7.
Following: "TENANT;" on line 6
Strike: remainder of line 6 through "SPACE;" on line 7

2. Title, line 7.
Following: "REVISING"
Strike: "GROUNDS"
Insert: "NOTICE REQUIREMENTS"

3. Title, line 9.
Strike: "70-24-427,"

4. Page 2, lines 19 and 22.
Following: "time."
Insert: "This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home."

5. Page 3, line 1.
Following: "home,"
Strike: "if rent remains unpaid 3 days after the tenant has received"
Following: "~~period~~"
Insert: "period"

6. Page 3, line 2.
Following: "~~is~~"
Strike: ", the landlord may terminate the rental agreement"
Insert: "is"

7. Page 3, lines 2 and 3.
Following: "days" on line 2
Strike: remainder of line 2 through "notice" on line 3

8. Page 3, lines 15 through 29.
Strike: section 3 in its entirety
Renumber: subsequent sections

Amd. Coord.
Sec. of Senate

9. Page 4, line 4.
Following: "70-24-422"
Insert: ", except as specifically provided in this section,"

10. Page 4, line 9.
Following: "70-24-422"
Strike: ";"
Insert: ". For this subsection (1)(b), the notice period referred to in 70-24-422(1) is 30 days."

11. Page 4, line 16.
Following: "rule"
Strike: ";"
Insert: ". For this subsection (1)(e), the notice period referred to in 70-24-422(1) is 60 days."

12. Page 4, line 20.
Following: "premises"
Strike: ","
Insert: ". For this subsection (1)(g), the notice period referred to in 70-24-422(1) is 30 days.
(h)"

13. Page 4, line 22.
Strike: "(h)"
Insert: "(i)"

14. Page 4, line 26.
Strike: "(i)"
Insert: "(j)"
Following: "met"
Strike: "; or"
Insert: ". For this subsection (1)(j), the notice period referred to in 70-24-422(1) is 180 days."

15. Page 4, line 27.
Strike: "(j)"
Insert: "(k)"

16. Page 4, lines 27 and 28.
Following: "~~business~~" on line 27
Strike: remainder of line 27 through "<u>other</u>" on line 28
Insert: "a legitimate business reason"

-END-

SENATE JUDICIARY
EXHIBIT NO. 2
DATE 2-8-95
BILL NO. SB 218

SENATE STANDING COMMITTEE REPORT

February 8, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 218 (first reading copy -- white), respectfully report that SB 218 be amended as follows and as so amended do pass.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, lines 6 and 7.
Following: "TENANT;" on line 6
Strike: remainder of line 6 through "SPACE;" on line 7

2. Title, line 7.
Following: "REVISING"
Strike: "GROUNDS"
Insert: "NOTICE REQUIREMENTS"

3. Title, line 9.
Strike: "70-24-427,"

4. Page 2, lines 19 and 22.
Following: "time."
Insert: "This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home."

5. Page 3, line 1.
Following: "home,"
Strike: "if rent remains unpaid 3 days after the tenant has received"
Following: "~~period~~"
Insert: "period"

6. Page 3, line 2.
Following: "~~is~~"
Strike: ", the landlord may terminate the rental agreement"
Insert: "is"

7. Page 3, lines 2 and 3.
Following: "days" on line 2
Strike: remainder of line 2 through "notice" on line 3

8. Page 3, lines 15 through 29.
Strike: section 3 in its entirety
Renumber: subsequent sections

Amd. Coord.
Sec. of Senate

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9. Page 4, line 4.
Following: "70-24-422"
Insert: ", except as specifically provided in this section,"

10. Page 4, line 9.
Following: "70-24-422"
Strike: ";"
Insert: ". For this subsection (1)(b), the notice period referred to in 70-24-422(1) is 30 days."

11. Page 4, line 16.
Following: "rule"
Strike: ";"
Insert: ". For this subsection (1)(e), the notice period referred to in 70-24-422(1) is 60 days."

12. Page 4, line 20.
Following: "premises"
Strike: ","
Insert: ". For this subsection (1)(g), the notice period referred to in 70-24-422(1) is 30 days.
(h)"

13. Page 4, line 22.
Strike: "(h)"
Insert: "(i)"

14. Page 4, line 26.
Strike: "(i)"
Insert: "(j)"
Following: "met"
Strike: "; or"
Insert: ". For this subsection (1)(j), the notice period referred to in 70-24-422(1) is 180 days."

15. Page 4, line 27.
Strike: "(j)"
Insert: "(k)"

16. Page 4, lines 27 and 28.
Following: "~~business~~" on line 27
Strike: remainder of line 27 through "other" on line 28
Insert: "a legitimate business reason"

-END-

HEARING ON SB 218

Opening Statement by Sponsor:

SEN. "CHRIS" CHRISTIAENS, SD 23, opened by saying that SB 218 dealt with general changes to the landlord-tenant act primarily involving notice requirements in termination of rental-agreement issues. He said that in the 1993 session, they had done a great deal of work in landlord-tenant issues particularly surrounding mobile home parks. This bill would modify portions of that act.

Proponents' Testimony:

Ronda Carpenter, Montana Housing Providers Chairman, supported SB 218 and offered some amendments to the bill and explained the bill with the current amendment as well as the amendments they were proposing. **EXHIBIT 1**

Don McLean, Attorney representing Oakland Holding Company, said they believed the bill was fair and was important in clarifying the law. He did explain some problems he saw with the bill in reference to the 90-day notice. He said the interpretation of the law has been that no matter what the reason for eviction, 90 days is the minimum notice. When suspected illegal activities are occurring, for instance, a shorter notice period would be preferable. He reinforced other proposed amendments and gave reasons for his support of them.

He addressed the amendments to page 3, line 9 by saying there should be a shorter notice period. On page 4, lines 25, 26, 29 and 30, were amendments added in the Senate they did not agree with and wanted removed.

Mary McCue, Attorney, spoke in support of SB 218 representing a number of mobile home park owners. They particularly felt it was important that the matter of the notice periods for good cause evictions be cleared up. The amendments to section 3 were particularly important to them. They also supported the proposed amendments [**EXHIBIT 1**] and wanted to see the Senate amendments to section 3, lines 24 and 25 and 29 and 30 removed. They wanted those notice periods removed. Additionally she discussed page 5, lines 9 - 11 as needing absolute clarity by reinserting the language at lines 9 and 10 with qualifying language which would make very clear the only circumstance under which the 90-day notice is required for a legitimate business reason.

Their intent in these suggestions was to clarify that the other time periods which are stated on page 4 are qualifying circumstances and to avoid problems with judges who are saying that it has to be 90 days in all circumstances.

Melissa Case, Montana People's Action, supported the bill. She said that language other proponents were opposing had come about from a lot of negotiating and work in the Senate committee and

she described how the compromises were reached with that committee. She went through the bill section by section with suggested changes. She also discussed the proposed amendments.

CHAIRMAN CLARK relinquished the chair to **VICE CHAIR DIANA WYATT.**

(Tape: 1; Side: B; Comments: Ms. Case's testimony is continued on Side B and the testimony of the next witness begins at Approximate Counter: 10.2.)

Ann Alberts, Montana Association of Realtors, supported SB 218 with the proposed amendments and urged the passage of the bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. KOTTEL asked what it costs to move a mobile home.

Ms. Case believed that it could range from $1,700 to $4,000.

REP. KOTTEL asked if there were areas in Montana which are suffering from lack of space for mobile homes.

Ms. Case said that the urban areas especially were lacking in mobile home space. It may cause several problems such as turning down job offers because mobile homes cannot be moved to certain locations.

REP. KOTTEL asked if the rules were only enforceable if they were adopted at the time the tenant rents or if the landlord was authorized to adopt rules that are enforceable throughout the tenancy.

Mr. McLean said those rule can be changed during the term of the tenancy.

REP. KOTTEL in referring to the proposed amendments, said that she understood historically it had been interpreted that the landlord would have to give 90-days' notice. The compromise worked out in the bill was 30-days' notice. But the proposed amendments would reduce it to 15-days' notice. She asked if that was correct.

Mr. McLean said he was not sure that historically it had been 90 days, though perhaps since 1993 with some instruction it had been 90-days' notice. He said he did not have a particular problem with the 30-days' notice and felt it was an acceptable compromise.

REP. KOTTEL restated her question and he agreed that the proposed amendments would reduce it to 15 days' notice.

REP. KOTTEL pointed out that subsection (3), lines 24 - 26 has been interpreted by some courts as 90 days, the compromise in the Senate was 60 days and the amendment proposed to delete the 60-day notice and would reduce it to 15 days. She asked if that was correct.

Mr. McLean said that was correct but offered an explanation. He suggested that this was looking at it in isolation and out of context with the other amendments and the reasons for them.

REP. KOTTEL pointed out the possibility of a two-time rules violation (such as not cutting the grass) granting the landlord the right to evict with only 15 days to move the trailer. She asked if that was correct.

Mr. McLean said that was correct.

REP. KOTTEL asked if the problem his client referred to [a tenant engaging in illegal activities] would not come under section (d).

Mr. McLean said it possibly would come under subsection (g).

REP. KOTTEL asked what objection they would have to leaving the 60 days in the bill for subsection (e).

Mr. McLean answered that it would depend upon the rules and how they were enforced. He said that his client would not be evicting for slight rule violations (such as not cutting their grass twice in one year). A problem tenant is usually a problem for a number of reasons. It would not make good business sense for a landlord to evict people for minor violations.

REP. KOTTEL knew of cases where a landlord used minor rule violations to evict as a way to terminate the lease when there are other retaliatory reasons which the landlord could not legally use. She asked if that could happen under this legislation, citing subsection (e) of the bill.

Mr. McLean said, "No, ... because the law protects someone from retaliatory action by a landlord."

REP. KOTTEL restated her point that the landlord would not state they were evicting for retaliatory reasons, but because there had been two or more rule violations within a 12-month period.

Mr. McLean replied that it did not matter, because if they try to evict them within that time period, the presumption operates by reason of law. If there is an eviction no matter the stated reason, it will be presumed that it is retaliatory if it is within a certain period of time of the event for which the landlord might be retaliating.

REP. KOTTEL asked if in providing the flexibility to one party in changing the notice period, it would produce for the other party a lack of flexibility.

Mr. McLean said that though what she said was an argument, he did not know that he agreed with it.

REP. CLIFF TREXLER asked **Ms. Case** to look at page 2, line 19 which referred to an unauthorized pet. He said that this section did not apply to a rental agreement involving a tenant who rents a space to park a mobile home, but who does not rent the mobile home. He asked if this meant the person owned the mobile home and that an owner of the park could not enforce the rules (such as unauthorized pets) because the renter of the space owned the mobile home.

Ms. Case said this did not apply to the person who owned the mobile home because the issue was damage to the rental unit.

REP. TREXLER asked if there was any way [for a mobile park owner/landlord] to remove a disruptive animal even though the person owned the mobile home.

Ms. Case believed that there is a variety of areas under which a rule could be formed to handle it.

REP. TREXLER spoke to the section which dealt with an "unauthorized person." He wanted to know who that might be.

Ms. Case said their concern was that an unauthorized person could range from a visiting in-law to others. Any damage would occur within the crowded space and there are rules which could apply.

REP. TREXLER discussed an amendment which dealt with the situation where an older mobile home could not be disposed of by a landlord.

Ms. Case said that the amendment provided that as long as the mobile home was in good condition, the landlord could not order that it be moved.

REP. TREXLER discussed his concern about the limited areas for accommodating a mobile home. By the same token, he wanted to know if the landlord was "stuck" with the "obnoxious person--this lack of rent-payment person--or the hound" simply because there was nowhere to move the trailer. He asked about the proposed amendments, how long the person would be allowed to stay after notice.

Ms. Case said the amendments she had brought dealt with the age of the home restriction. It would not affect any termination issues. If there is a reason to terminate, they can be evicted, but it needs to be a reasonable length of time. She said that other proponents' amendments dealt with those lengths of time.

{Tape: 1; Side: B; Approx. Counter: 35.1}

Closing by Sponsor:

SEN. CHRISTIAENS closed by saying this was a complicated bill because of all the different time frames. The reason for the bill was to clarify some of the things enacted into law in 1993 which have been difficult for the courts to interpret. He said he did not want the committee left with idea that this was a compromise within the Senate. When the bill appeared before the Senate Judiciary Committee, before the hearing was half through, there was only one member of the committee left to hear the bill for one hour. It was rewritten by that committee member, so only one part of the group was invited to participate in reaching a compromise. He asked that the bill be passed as it came out of the Senate rather than to deal with the proposed amendments. He felt they could live with the bill as it came out of the Senate and those he had talked with concurred in that; therefore he asked that it be passed without the amendments.

CHAIRMAN CLARK resumed the chair.

HEARING ON SB 185

Opening Statement by Sponsor:

SEN. FRED VAN VALKENBURG, SD 32, brought SB 185 at the request of the Department of Justice. The bill would provide for conversion of a procedure for determination of an habitual offender from a judicial proceeding to an administrative proceeding. It would provide a judicial means of appeal for someone who would disagree with such a decision by the Department of Justice and it would establish a minimum sentence of a violation of the habitual offender law of a 14-day jail sentence. The reason for the bill was to reduce administrative overhead. The habitual offender designation is one that is routine once someone has accumulated 30 points under the traffic violation point system. He described the process under current law and requirements of the department. He described the process under the proposed change in SB 185.

Proponents' Testimony:

Brenda Nordlund, Department of Justice, said this bill would reduce bureaucracy and streamline the process in declaring someone a habitual traffic offender. She outlined the traffic offenses and the numbers of points assigned to each. She described the current process as cumbersome. They desired to reverse the process so that when the department's computer notified them that the 30 points had been attained they would be authorized to notify the habitual offender that their drivers license had been revoked for three years. It would be incumbent upon the individual motorist to appear in district court to file a petition to challenge the accuracy of the records. It would be

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 3/2/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar		✓	
Rep. Debbie Shea	✓ 8:15	~~✓~~	
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

EXHIBIT 1
DATE 3/2/95
SB 218

MONTANA HOUSING PROVIDERS
PROPOSED AMENDMENT TO SENATE BILL NO. 218
THIRD READING
HOUSE JUDICIARY COMMITTEE
March 2, 1995

1. Page 3, line 7.
Following: mobile home,
Re-insert: "if rent remains unpaid 3 days after the tenant has received"

2. Page 3, line 8.
Delete: "PERIOD"
Following: "(2)(a)"
Insert: "the landlord may terminate the rental agreement"
Delete: IS
Following: "days"
Insert: "after the tenant has received that notice"

3. Page 4, lines 24 and 25.
Following: "rule"
Insert: ";"
Delete: ". FOR THIS SUBSECTION (1)(E), THE NOTICE PERIOD REFERRED TO IN 70-24-422(1) IS 60 DAYS."

4. Page 4, lines 29 and 30.
Following: "premises"
Insert: ";"
Delete: ". FOR THIS SUBSECTION (1)(G), THE NOTICE PERIOD REFERRED TO IN 70-24-422(1) IS 30 DAYS."

REP. MC GEE felt the point was to make the responsible party responsible. He thought it was important to remember that it is a privilege and not a right to use the highways.

REP. KOTTEL said she had a problem with the issue of parity in that physicians and lawyers are not required to carry insurance, but that they were legislating the requirement for automobile insurance. She said that there are many other tortious actions in society where people are not being forced to carry insurance.

REP. MC GEE replied that no one has to go to a doctor or lawyer and he did not have to share those choices with other people, but he did have to share the highways with those who would choose not to be insured.

REP. HURDLE asked if it was possible to post a bond rather than purchasing car insurance.

REP. KOTTEL said self-insurance was allowed in Montana.

REP. CLIFF TREXLER discussed parity from the standpoint of the numbers of points allocated for serious and reckless driving habits as compared with the number of points for failure to carry insurance.

Motion: **REP. TREXLER MOVED TO AMEND SB 297 BY REDUCING THE POINTS FROM FIVE TO THREE.**

Discussion: **CHAIRMAN CLARK** explained what occurs, from a law enforcement perspective, with people not carrying insurance.

REP. SHEA and **REP. LINDA MC CULLOCH** clarified the issuance of citations and dismissal of charges in various scenarios. Line 22 on page 2 addressed and clarified the issues.

REP. MC GEE opposed the amendment because the issue behind the high point value was the effect of the lack of insurance on other persons and their property.

REP. TREXLER said his motion to reduce the amount of points did not relate to the responsibility of the driver, but to make it fit into the other areas of offense in reckless driving and other endangerment of life issues.

Vote: **The motion failed on voice vote.**

Vote: **The motion to concur carried 17 - 2, REPS. SMITH and TREXLER voted no.**

EXECUTIVE ACTION ON SB 218

Motion: **REP. HURDLE MOVED SB 218 BE CONCURRED IN.**

Discussion: **REP. KOTTEL** supported the bill.

REP. MC GEE questioned proposed amendments and **REP. KOTTEL** clarified the proposed amendments as not being needed.

Vote: **The motion carried 17 - 2, REPS. CLARK and BOHARSKI voted no.**

{Tape: 1; Side: B}

EXECUTIVE ACTION ON HB 517

[NOTE: HB 517 was heard on 3/6/95, passed as amended on 3/9/95, reconsidered on 3/13/95 and passed as amended on 3/15/95.]

Motion: **REP. KOTTEL MOVED HB 517 DO PASS AS AMENDED.**

Discussion: **REP. KOTTEL** objected to the reconsideration of this bill and explained why.

REP. ANDERSON responded to her objections and stated his reasons for his objections to the bill and his desire for the committee's reconsideration of the bill.

There was continuing debate over the original vote count and over the process of reconsideration of the bill as well as the philosophy behind carrying bills and promoting their passage or defeat.

{Tape: 1; Side: B; Approx. Counter: 8.1.}

REP. KOTTEL spoke to the substance of the bill and the intent behind it to find ways to add revenue to the general fund. She reiterated that it would not raise rates, that it would induce parties to settle, unclog the courts and generate money for the state.

REP. ANDERSON rebutted the arguments for the bill. He said in his mind it could not be reconciled with another bill which would cap noncompensatory damages to curb the costs of health care, it would allow courts to self fund and would allow judges to delay action if they want to accrue more interest on the noncompensatory damages and it would further clog the courts. He said it would only affect the defendant which might or might not be an insurance company. He did not believe it would encourage settlement and described why. He felt that the court might give overly broad instructions to the jury and would result in self-serving and self-feeding legislation.

Vote: **The motion carried 12 - 7 on roll call vote.**

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 3/15/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski			✓
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes			✓
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓ 8:30	✓	
Rep. Loren Soft	✓*		✓ * returned late in meeting
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 218** (third reading copy -- blue) **be concurred in.**

Signed: Bob Clark

Bob Clark, Chair

Carried by: Rep. Wiseman

Committee Vote:
Yes 17, No 2.

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